

## **REMARKS**

This application has been reviewed in light of the Office Action dated July 27, 2007. Claims 1, 4, 5, 7, 9-17, 19, 21, 23, 25-36, 40, 41, 44-50, 52-59 are presented for examination. Claim 6 has been canceled, and its recitations incorporated into claims 1 and 31; this action is taken without prejudice or disclaimer of subject matter. Claims 1 and 31 have been amended to define still more clearly what Applicant regards as his invention. Claims 1, 31, and 52 are in independent form. The specification, in particular the abstract, has been amended in accordance with the objection discussed below. Favorable reconsideration is requested.

The Examiner objected to the abstract because the final two sentences allegedly contain improper language. Applicant has amended the abstract to delete these two sentences. It is believed this action obviates the objection, and Applicant respectfully requests its withdrawal.

Claims 1, 4-7, 9-10, 14-17, 19, 21, 23, 25-29, and 52-59 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,904,650 to Wells ("the '650 patent").

Claims 11-13, 31-36, 40, 41, 44-47, 49, and 50 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the '650 patent, in view of U.S. Patent No. 5,558,622 to Greenberg ("the '622 patent").

Claim 30 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the '650 patent, in view of U.S. Patent No. 6,228,025 to Hipps et al. (the '025 patent).

Claim 48 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the '650 patent in view of the '622 patent as applied to claim 44, and further in view of U.S. Patent No. 4,769,011 to Swaniger ("the '0112 patent").

As shown above, Applicant has amended independent claims 1 and 31 in terms that more clearly define what he regards as his invention. Applicant submits that these amended independent claims along with independent claim 52, together with the remaining

claims dependent thereon, are patentably distinct from the cited prior art for at least the following reasons.

### **REJECTION OF INDEPENDENT CLAIM 1**

Claim 1 was rejected under 35 U.S.C. §102(b) as being anticipated by the '650 patent. Claim 1 is directed to a surgical retractor comprising a handle having a longitudinal axis and proximal and distal ends, a first coupling mechanism adjacent the proximal end of the handle. The first coupling mechanism includes a knob having a bore and the knob is rotatable about the longitudinal axis of the handle. The surgical retractor also includes a blade member having a proximal end and a distal end. The blade member comprises a coupling element, and the coupling element is configured and dimensioned to be received in the bore of the knob. The handle comprises an opening that is configured and dimensioned to receive the knob.

The '650 patent, as understood by Applicant, relates to surgical retractors adapted for endoscopic use. In the Office Action, the Examiner identifies the tightener (70) of the '650 patent with the handle of claim 1. The tightener (70) forms part of shaft (60). The Examiner further associates the handle (40) with the first coupling mechanism of claim 1. On page 3 of the Office Action, the Examiner also equates handle (40) with the knob of claim 1. The Office Action, however, fails to identify an opening on the tightener (70) that is configured and dimensioned to receive the handle (40) which allegedly equates to the knob or coupling mechanism of claim 1. Applicant is unsure as to what element of the '650 patent equates to the knob and coupling mechanism, because the Office Action identifies the handle (40) as equating to both. Irrespective of this, the tightener (70) does not have an opening.

Further, what the Examiner identifies as a handle, element (70) the tightener, does not function as a handle but rather to lock the endoscope in a selected desired position. The Examiner also states that the bore (46) is rotatable about the longitudinal axis of the handle.

Applicant points out that claim 1 recites that the knob is rotatable about the longitudinal axis. The Office Action has not clearly identified what feature of the '650 patent equates to the knob of claim 1.

For at least these reasons, Applicant submits that claim 1 is clearly patentable over the '650 patent.

### **REJECTION OF INDEPENDENT CLAIM 31**

Independent claim 31 recites features similar to those discussed above with respect to claim 1, namely the handle having an opening for receiving the knob, and therefore is also believed to be patentable over '650 for the reasons discussed above. The '622 was cited against claim 31. The '622 was cited for disclosing "C" and "L" hook-shaped distal ends of a retractor blade and a method for treating bone that includes providing the surgical retractor, making an incision in the soft tissue and elevating the tissue off the bone. The '633 patent, however, does not remedy the deficiencies of the '650 patent as discussed above in connection with claim 1. Therefore, Applicant submits that a combination of the '650 and '622 patents, assuming such combination would even be permissible, also would fail to teach or suggest at least those features of claim 31.

### **REJECTION OF INDEPENDENT CLAIM 52**

Claim 52 was rejected under 35 U.S.C. § 102(B) as being unpatentable over the '650.

Claim 52 is directed towards a surgical retractor comprising a handle having a longitudinal axis, a proximal end, a distal end and an opening, a first coupling mechanism adjacent the proximal end of the handle, where the first coupling mechanism is rotatable about the longitudinal axis of the handle, a second coupling mechanism proximate the proximal end of the handle having a through-hole and at least a portion which is axially

moveable within the opening of the handle. The through-hole of the second coupling mechanism is sized and configured to receive a surgical instrument. The surgical retractor further includes a blade member having a proximal end and a distal end. The blade member comprises a coupling element proximate the proximal end of the blade member, and the coupling element is configured and dimensioned to connect with the first coupling mechanism.

The Examiner appears to equate the interior surface (68) of the socket (66) with the second coupling mechanism of claim 52. The Examiner in rejecting claim 52 states that the '650 patent discloses a second coupling mechanism (68) located on the handle, which couples to a coupling member (50) for supporting a surgical instrument such as an endoscope. Applicant respectfully points out that claim 52 recites that a second coupling mechanism proximate the proximal end of the handle has a through-hole and at least a portion which is axially moveable within the opening of the handle, wherein the through-hole of the second coupling mechanism is sized and configured to receive a surgical instrument. Applicant fails to see what part of element (68) includes a through-hole. Further, element (68) is an interior surface of a socket (66) which is proximate the lower end (64) of the shaft (60), not proximate the tightener (70) which the Examiner has identified as corresponding to the handle of claim 52. Because there is no through-hole as part of the interior surface (68), Applicant fails to understand how surgical instrument can be received. Applicant notes that the Examiner states that that the coupling mechanism (68) couples to a coupling member (50) for supporting a surgical instrument. This is completely different that what is recited in claim 52 with regards to a second coupling mechanism. Nothing has been found in the '650 patent that teaches or suggests a second coupling mechanism proximate the proximal end of the handle having a through-hole and at least a portion which is axially moveable within the opening of the handle.

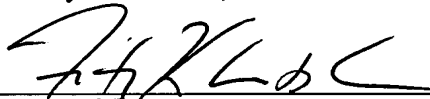
Accordingly, Applicant submits that claim 52 is not anticipated by '650, and respectfully requests withdrawal of the rejection under 35 U.S.C. § 102(b).

The other claims in this application are each dependent from one or another of the independent claims discussed above and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration, as the case may be, of the patentability of each on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicant respectfully requests favorable reconsideration and early passage to issue of the present application. Should the Examiner have any questions or comments concerning this submission, he is invited to call the undersigned at the phone number identified below.

Respectfully submitted,

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